IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.405 OF 1997

The Commissioner of Income-tax,
Pune .. Applicant.

V/s.

Yeshwant Sahakari Sakhar
Karkhana Ltd., Theur .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 12TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> Whether on the facts and in the circumstances of the case, the Tribunal, relying on its Special Bench decision in the case of Shri Chhatrapati SSK Ltd. (198 ITR 78 - AT), was right in deleting the additions on account of non-refundable deposits, refundable deposits, Area development fund, Cane development fund, C.M.'s fund, Hutment fund, Area Education fund, Late Y.B. Chavan Fund, holding that the various funds and deposits collected by the assessee society out of the sugarcane purchase price payable to the cane growers are not trading receipts of the assessee ?

2. In so far all other items except Area Development Fund and Cane Development Fund are

concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as Area Development Fund and Cane Development Fund are concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issues stand remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)